

Introduced by Senator BlockFebruary 27, 2015

An act to amend Section 17 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 617, as introduced, Block. Crimes.

Under existing law, a felony is a crime that is punishable with death, or by imprisonment in the state prison, or by imprisonment in a county jail for more than one year. Under existing law, every other crime or public offense is a misdemeanor, except those offenses that are classified as infractions.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17 of the Penal Code is amended to read:
2 17. (a) A felony is a crime that is punishable with death, by
3 imprisonment in the state prison, or notwithstanding any other
4 provision of law, by imprisonment in a county jail under the
5 provisions of subdivision (h) of Section 1170. Every other crime
6 or public offense is a misdemeanor except those offenses that are
7 classified as infractions.
8 (b) When a crime is punishable, in the discretion of the court,
9 either by imprisonment in the state prison or imprisonment in a
10 county jail under the provisions of subdivision (h) of Section 1170,

1 or by fine or imprisonment in the county jail, it is a misdemeanor
2 for all purposes under the following circumstances:

3 (1) After a judgment imposing a punishment other than
4 imprisonment in the state prison or imprisonment in a county jail
5 under the provisions of subdivision (h) of Section 1170.

6 (2) When the court, upon committing the defendant to the
7 Division of Juvenile Justice, designates the offense to be a
8 misdemeanor.

9 (3) When the court grants probation to a defendant without
10 imposition of sentence and at the time of granting probation, or
11 on application of the defendant or probation officer thereafter, the
12 court declares the offense to be a misdemeanor.

13 (4) When the prosecuting attorney files in a court having
14 jurisdiction over misdemeanor offenses a complaint specifying
15 that the offense is a misdemeanor, unless the defendant at the time
16 of his or her arraignment or plea objects to the offense being made
17 a misdemeanor, in which event the complaint shall be amended
18 to charge the felony and the case shall proceed on the felony
19 complaint.

20 (5) When, at or before the preliminary examination or prior to
21 filing an order pursuant to Section 872, the magistrate determines
22 that the offense is a misdemeanor, in which event the case shall
23 proceed as if the defendant had been arraigned on a misdemeanor
24 complaint.

25 (c) When a defendant is committed to the Division of Juvenile
26 Justice for a crime punishable, in the discretion of the court, either
27 by imprisonment in the state prison or imprisonment in a county
28 jail under the provisions of subdivision (h) of Section 1170, or by
29 fine or imprisonment in the county jail not exceeding one year,
30 the offense shall, upon the discharge of the defendant from the
31 Division of Juvenile Justice, thereafter be deemed a misdemeanor
32 for all purposes.

33 (d) A violation of any code section listed in Section 19.8 is an
34 infraction subject to the procedures described in Sections 19.6 and
35 19.7 ~~when~~ *under either of the following circumstances:*

36 (1) The prosecutor files a complaint charging the offense as an
37 infraction unless the defendant, at the time he or she is arraigned,
38 after being informed of his or her rights, elects to have the case
39 proceed as a misdemeanor, ~~or~~.

1 (2) The court, with the consent of the defendant, determines
2 that the offense is an infraction in which event the case shall
3 proceed as if the defendant had been arraigned on an infraction
4 complaint.

5 (e) Nothing in this section authorizes a judge to relieve a
6 defendant of the duty to register as a sex offender pursuant to
7 Section 290 if the defendant is charged with an offense for which
8 registration as a sex offender is required pursuant to Section 290,
9 and for which the trier of fact has found the defendant guilty.

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